

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE
MINUTE ORDER**

BEFORE: A. KATHLEEN TOMLINSON
U.S. MAGISTRATE JUDGE

DATE: 1-31-2014
TIME: 5:28 p.m.

Bryant, et al. v. Milborat, et al., CV-09-1751 (AKT)
Vercher, et al. -v- Milborat, et al., CV-09-1835 (WDW)
Vercher, et al. -v- Milborat, et al., CV-09-1836 (ETB)
Emmett, et al. -v- Milborat, MD, et al., CV-09-2368 (ADS) (AKT)
Smith, et al. -v- Milborat, MD, et al., CV-09-2506 (DRH) (AKT)
Spampata, et al. -v- Milborat, et al., CV-09-3031 (JS) (AKT)
Hall, et al. -v- Milborat, et al., CV-09-3060 (WDW)
Holden, et al. v. Milborat, et al., CV-09-3061 (AKT)
Hua, et al. -v- Milborat MD, et al., CV-09-3141 (JS) (AKT)
Talbot, et al. -v- Milborat, MD, et al., CV-09-3842 (WDW)
Dolan -v- Milborat, MD, et al., CV-09-4269 (JS) (AKT)
Stephenson, et al. v. Milborat, et al., CV-09-4298 (AKT)
Milelli, et al. -v- Milborat, MD, et al., CV-09-4381 (ADS) (AKT)
Mays -v- Milborat, MD, et al., CV-09-4579 (JS) (ETB)
Kalwary, et al. -v- Milborat, MD, et al., CV-09-4752 (ETB)
Vercher, et al. -v- Milborat, MD, et al., CV-09-5085 (WDW)
Taylor v. Milborat, et al., CV-09-5201 (ADS) (AKT)
Blair, et al. -v- Milborat, MD, et al., CV-09-5230 (DRH) (AKT)
Witty, et al. -v- Miborat, et al., CV-09-5621 (ADS) (AKT)
Schultz, et al. v. Milborat, et al., CV-10-103 (AKT)
Otto, et al. -v- Milborat, MD, et al., CV-10-145 (WDW)
Corbin, et al. -v- Milborat, MD, et al., CV-10-366 (ARL)
Moran -v- Milborat, MD, et al., CV-10-551 (JFB) (AKT)
Walker v. Milborat, et al., CV-10-621 (JFB) (AKT)
Wampler, et al. -v- Milborat, MD, et al., CV-10-765 (WDW)
Kemble, et al. -v- Milborat, et al., CV-10-863 (WDW)
Gannon, et al. -v- Milborat, et al., CV-10-1160 (ARL)
Caldwell, et al. -v- Milborat, et al., CV-10-1271 (JS) (ETB)
Napoli -v- Milborat, MD, et al., CV-10-1396 (ETB)
Schneider, et al. -v- Milborat, et al., CV-10-1465 (JS) (WDW)
Daniels, et al. -v- Milborat, MD, et al., CV-10-1586 (JS) (ETB)
Covert, et al. -v- Milborat, MD, et al., CV-10-1769 (JFB) (AKT)
Simons -v- Milborat, MD, et al., CV-10-2059 (WDW)
Simmermon, et al. -v Milborat, MD, et al., CV-10-2258 (ARL)
Tumblin -v- Milborat, et al., CV-10-2284 (DRH) (AKT)
Bolger -v- Milborat, et al., CV-10-2687 (JS) (AKT)
Fetterly, et al. -v- Milborat, et al., CV-10-4260 (ETB)
Colen -v- Milborat, et al., CV-10-5701 (DRH) (AKT)
Walker -v- Milborat, et al., CV-10-5881 (ADS) (ARL)
Brown -v- Milborat, et al., CV-10-5882 (AKT)
Ayers, et al. -v- Milborat, et al., CV-10-5957 (ETB)
Donohoe, et al. -v- Milborat, et al., CV-11-458 (ADS) (ETB)

TYPE OF CONFERENCE: **STATUS CONFERENCE**

APPEARANCES: Plaintiffs: Lee S. Goldsmith
 Janet Walsh
 Christina Ctorides
 Steve Knowlton
 Gene Locks

 Defendants: Anthony Sola (North Shore Defs. w/exceptions noted)
 Rosaleen T. McCrory

 John McNaboe (Dr. Roonprapunt, Dr. Winkler,
 Dr. Mogilner)

FTR: 5:28-5:40

SCHEDULING:

 The Court is setting the cases down for a telephone conference on March 14, 2014 at 11 a.m. Plaintiffs' counsel will provide a conference call-in number to all parties and the Court.

THE FOLLOWING RULINGS WERE MADE:

1. Plaintiffs' counsel, Lee Goldsmith, reported today that 34 of the 42 cases have now been settled by the parties. The settlement documents are being worked on now and there are a number of infant compromises that will be presented to the case-assigned Judges respectively.
2. Counsel for North Shore-LIJ and designated individual defendants, Tony Sola, stated that the eight (8) currently unresolved cases include the three cases which were designated to be trial-ready first. The parties are continuing their settlement discussions concerning these cases.

 Plaintiff's counsel, Gene Lock, advised that mediation days have been scheduled in February for these remaining cases. The parties are hoping that these cases are amenable to settlement going forward. Counsel will have a better idea by early March whether resolution is possible. There has been some discussion about a possible agreement to a form of arbitration as well. Counsel do not believe that Court intervention is needed at this time.

3. We spent some time talking about the motions which remain pending regarding the expert witnesses and whether the Court would proceed with rendering those decisions or withhold a determination while the parties are negotiating in good faith. It was agreed that the Court will hold those decisions in abeyance. Because the Court is running into reporting deadlines within the judiciary regarding outstanding motions, the Court had a discussion with counsel about denying or dismissing the pending motions, without prejudice, and with the right of the movants if no settlement is achieved to automatically reinstate the motions upon submission of a letter to the Court stating the parties' desire to reinstate the motion(s). Counsel were amenable to such action by the Court.

4. Upon further inquiry by counsel, the Court confirmed that if the cases do not settle, the motions will be reinstated upon notification by counsel and that in the absence of any request to engage in summary judgment motion practice, the cases would be certified over to the assigned Judges as trial-ready once the decisions on the expert motions have been entered.

SO ORDERED

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
U.S. Magistrate Judge